

By: Collier

H.B. No. 439

A BILL TO BE ENTITLED

AN ACT

relating to an advance directive and do-not-resuscitate order of a pregnant patient.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 166.033, Health and Safety Code, is amended to read as follows:

Sec. 166.033. FORM OF WRITTEN DIRECTIVE. A written directive may be in the following form:

DIRECTIVE TO PHYSICIANS AND FAMILY OR SURROGATES

Instructions for completing this document:

This is an important legal document known as an Advance Directive. It is designed to help you communicate your wishes about medical treatment at some time in the future when you are unable to make your wishes known because of illness or injury. These wishes are usually based on personal values. In particular, you may want to consider what burdens or hardships of treatment you would be willing to accept for a particular amount of benefit obtained if you were seriously ill.

You are encouraged to discuss your values and wishes with your family or chosen spokesperson, as well as your physician. Your physician, other health care provider, or medical institution may provide you with various resources to assist you in completing your advance directive. Brief definitions are listed below and may aid you in your discussions and advance planning. Initial the

1 treatment choices that best reflect your personal preferences.
2 Provide a copy of your directive to your physician, usual hospital,
3 and family or spokesperson. Consider a periodic review of this
4 document. By periodic review, you can best assure that the
5 directive reflects your preferences.

6 In addition to this advance directive, Texas law provides for
7 two other types of directives that can be important during a serious
8 illness. These are the Medical Power of Attorney and the
9 Out-of-Hospital Do-Not-Resuscitate Order. You may wish to discuss
10 these with your physician, family, hospital representative, or
11 other advisers. You may also wish to complete a directive related
12 to the donation of organs and tissues.

13 DIRECTIVE

14 I, _____, recognize that the best health care is based
15 upon a partnership of trust and communication with my physician. My
16 physician and I will make health care or treatment decisions
17 together as long as I am of sound mind and able to make my wishes
18 known. If there comes a time that I am unable to make medical
19 decisions about myself because of illness or injury, I direct that
20 the following treatment preferences be honored:

21 If, in the judgment of my physician, I am suffering with a
22 terminal condition from which I am expected to die within six
23 months, even with available life-sustaining treatment provided in
24 accordance with prevailing standards of medical care:

25 _____ I request that all treatments other than those needed
26 to keep me comfortable be discontinued or withheld and
27 my physician allow me to die as gently as possible; OR

1 _____ I request that I be kept alive in this terminal
2 condition using available life-sustaining treatment.

3 (THIS SELECTION DOES NOT APPLY TO HOSPICE CARE.)

4 If, in the judgment of my physician, I am suffering with an
5 irreversible condition so that I cannot care for myself or make
6 decisions for myself and am expected to die without life-sustaining
7 treatment provided in accordance with prevailing standards of care:

8 _____ I request that all treatments other than those needed
9 to keep me comfortable be discontinued or withheld and
10 my physician allow me to die as gently as possible; OR

11 _____ I request that I be kept alive in this irreversible
12 condition using available life-sustaining treatment.

13 (THIS SELECTION DOES NOT APPLY TO HOSPICE CARE.)

14 Additional requests: (After discussion with your physician,
15 you may wish to consider listing particular treatments in this
16 space that you do or do not want in specific circumstances, such as
17 artificially administered nutrition and hydration, intravenous
18 antibiotics, etc. Be sure to state whether you do or do not want the
19 particular treatment.)

20 After signing this directive, if my representative or I elect
21 hospice care, I understand and agree that only those treatments
22 needed to keep me comfortable would be provided and I would not be
23 given available life-sustaining treatments.

24 If I do not have a Medical Power of Attorney, and I am unable
25 to make my wishes known, I designate the following person(s) to make
26 health care or treatment decisions with my physician compatible
27 with my personal values:

1 1. _____

2 2. _____

3 (If a Medical Power of Attorney has been executed, then an
4 agent already has been named and you should not list additional
5 names in this document.)

6 If the above persons are not available, or if I have not
7 designated a spokesperson, I understand that a spokesperson will be
8 chosen for me following standards specified in the laws of Texas.
9 If, in the judgment of my physician, my death is imminent within
10 minutes to hours, even with the use of all available medical
11 treatment provided within the prevailing standard of care, I
12 acknowledge that all treatments may be withheld or removed except
13 those needed to maintain my comfort. [~~I understand that under Texas
14 law this directive has no effect if I have been diagnosed as
15 pregnant.~~] This directive will remain in effect until I revoke it.
16 No other person may do so.

17 Signed _____ Date _____ City, County, State of
18 Residence _____

19 Two competent adult witnesses must sign below, acknowledging
20 the signature of the declarant. The witness designated as Witness 1
21 may not be a person designated to make a health care or treatment
22 decision for the patient and may not be related to the patient by
23 blood or marriage. This witness may not be entitled to any part of
24 the estate and may not have a claim against the estate of the
25 patient. This witness may not be the attending physician or an
26 employee of the attending physician. If this witness is an employee
27 of a health care facility in which the patient is being cared for,

1 this witness may not be involved in providing direct patient care to
2 the patient. This witness may not be an officer, director, partner,
3 or business office employee of a health care facility in which the
4 patient is being cared for or of any parent organization of the
5 health care facility.

6 Witness 1 _____ Witness 2 _____

7 Definitions:

8 "Artificially administered nutrition and hydration" means
9 the provision of nutrients or fluids by a tube inserted in a vein,
10 under the skin in the subcutaneous tissues, or in the
11 gastrointestinal tract.

12 "Irreversible condition" means a condition, injury, or
13 illness:

14 (1) that may be treated, but is never cured or
15 eliminated;

16 (2) that leaves a person unable to care for or make
17 decisions for the person's own self; and

18 (3) that, without life-sustaining treatment provided
19 in accordance with the prevailing standard of medical care, is
20 fatal.

21 Explanation: Many serious illnesses such as cancer, failure
22 of major organs (kidney, heart, liver, or lung), and serious brain
23 disease such as Alzheimer's dementia may be considered irreversible
24 early on. There is no cure, but the patient may be kept alive for
25 prolonged periods of time if the patient receives life-sustaining
26 treatments. Late in the course of the same illness, the disease may
27 be considered terminal when, even with treatment, the patient is

1 expected to die. You may wish to consider which burdens of
2 treatment you would be willing to accept in an effort to achieve a
3 particular outcome. This is a very personal decision that you may
4 wish to discuss with your physician, family, or other important
5 persons in your life.

6 "Life-sustaining treatment" means treatment that, based on
7 reasonable medical judgment, sustains the life of a patient and
8 without which the patient will die. The term includes both
9 life-sustaining medications and artificial life support such as
10 mechanical breathing machines, kidney dialysis treatment, and
11 artificially administered nutrition and hydration. The term does
12 not include the administration of pain management medication, the
13 performance of a medical procedure necessary to provide comfort
14 care, or any other medical care provided to alleviate a patient's
15 pain.

16 "Terminal condition" means an incurable condition caused by
17 injury, disease, or illness that according to reasonable medical
18 judgment will produce death within six months, even with available
19 life-sustaining treatment provided in accordance with the
20 prevailing standard of medical care.

21 Explanation: Many serious illnesses may be considered
22 irreversible early in the course of the illness, but they may not be
23 considered terminal until the disease is fairly advanced. In
24 thinking about terminal illness and its treatment, you again may
25 wish to consider the relative benefits and burdens of treatment and
26 discuss your wishes with your physician, family, or other important
27 persons in your life.

1 SECTION 2. Sections 166.049 and 166.098, Health and Safety
2 Code, are repealed.

3 SECTION 3. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2017.